

FILED

SEP 14 2007

DISCIPLINARY COMMISSION OF THE
SUPREME COURT OF ARIZONA

**BEFORE THE DISCIPLINARY COMMISSION
OF THE SUPREME COURT OF ARIZONA**

IN THE MATTER OF A NON-MEMBER)
OF THE STATE BAR OF ARIZONA)

No. 04-1144

SUZANNE BAFFA,)
Bar No. 022807)

**DISCIPLINARY COMMISSION
REPORT**

RESPONDENT.)
_____)

A Probable Cause Order was filed on July 18, 2005, and the State Bar of Arizona filed its Complaint on September 30, 2005, alleging violations of ERs 8.1 and 8.4(c), Ariz.R.Sup.Ct.

Upon motion by the State Bar, this disciplinary matter was stayed by the Disciplinary Commission of the Supreme Court of Arizona on November 21, 2006, pending the Supreme Court decision on the State Bar's Petition to Revoke License to Practice Law pursuant to Rule 33(b), Ariz.R.Sup.Ct., which was ultimately granted.¹ See Order No. SB-06-0159-M, filed February 12, 2007. Thereafter, on February 20, 2007, the State Bar filed a Motion to Lift Stay and Motion to Dismiss Complaint and Request for Imposition of Costs and Expenses.

On March 20, 2007, the Disciplinary Commission granted the State Bar's Motion to Lift Stay and dismissed the disciplinary complaint as moot. The Commission further requested that the State Bar file a supplemental memorandum addressing whether the requirements of Rule 60 (b)(1), Ariz.R.Sup.Ct., have been met and if the Commission has jurisdiction to impose costs based on the Respondent's retroactive revocation. Rule 60(b) (1) provides in part that:

¹The Petition and Order did not address costs.

At the conclusion of the disciplinary proceedings, the state bar shall file an itemized statement of costs and expenses on proven counts or admitted counts.

The State Bar filed its supplemental memorandum on April 3, 2007, asserting that the requirements of Rule 60(b)(1) have been met because the Supreme Court found that the State Bar established that Respondent procured her admission to practice in Arizona through fraud or misrepresentation and has proven the allegations set forth in the petition to Revoke License to Practice Law; the same allegations that are contained in the disciplinary complaint.

The State Bar further asserts that pursuant to Rules 31 and 75, the Arizona Supreme Court has the inherent authority to impose costs. In addition, although Respondent's revocation was retroactive, the State Bar argues that Respondent was a member of the State Bar of Arizona during the disciplinary proceedings and the assessment of costs and expenses incurred in the investigation of this matter are appropriate.

The Disciplinary Commission then considered on August 11, 2007, pursuant to Rule 60(b), Ariz.R.Sup.Ct.,² the Arizona Supreme Court Order, No. SB-06-0159-M filed February 12, 2007, revoking Respondent Suzanne Baffa's license to practice law retroactive to the date of her admission, May 27, 2004, the State Bar's Statement of Costs and Expenses and its Supplemental Memorandum regarding Imposition of Costs and Expenses, the Disciplinary Clerk's Statement of Costs and Expenses. No objection was filed.


Decision

The Commission's jurisdiction to award costs to the State Bar under Rule 60(b) may be subject to question since the case did not result in a disciplinary sanction from the

² Rule 60(b), Disciplinary Sanctions provides for the assessment of costs and expenses related to disciplinary proceedings in addition to any other sanction imposed.

Commission, but the Supreme Court surely has the authority to impose costs pursuant to its power to revoke Respondent's license under Rule 33(b). We therefore, unanimously recommend that pursuant to Rule 60(b), costs and expenses in the amount of \$1,849.30³ be assessed against Respondent.

RESPECTFULLY SUBMITTED this 14th day of September 2007.


J. Conrad Baran, Chair
Disciplinary Commission

Original filed with the Disciplinary Clerk
this 14th day of September, 2007.

Copy of the foregoing mailed
this 14th day of September, 2007, to:

Kraig J. Marton
Hearing Officer 8A
Jaburg & Wilk, P.C.
3200 North Central Avenue, Suite 2000
Phoenix, AZ 85012

Suzanne Baffa
Respondent
10401 North 100th Street, House 5
Scottsdale, AZ 85258

Maret Vessella
Deputy Chief Bar Counsel
State Bar of Arizona
4201 North 24th Street, Suite 200
Phoenix, AZ 85016-6288

³This total amount represents the Disciplinary Clerk's costs and expenses of \$417.00; and the State Bar's costs and expenses of \$1,432.30.

Sandra Montoya
Lawyer Regulation Records Manager
State Bar of Arizona
4201 N. 24th Street, Suite 200
Phoenix, Arizona 85016-6288

by: M. Smith

/mps